IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

CRL.A.No. 7 of 2000(A)
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(CC.167/97 ON THE FILE OF JMFC,NO.I, KANNUR)

APPELLANT: COMPLAINANT

R.T.GOVINDAN NAMBIAR ALIAS R.T.GOVINDAN, S/O.KANNAN NAMBIAR, AGED 42, BUSINESS, RESIDING AT NISHALAYAM, MAYYIL.

BY ADV. SRI.K.G.SARATHKUMAR
SRI.PANKAJ VIJAYAN

RESPONDENTS: ACCUSED:
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1. DR.P.P.RAGHAVAN.M.D., S/O.KUNHIRAMAN, MEDICAL PRACTITIONER RESIDING AT KAYARALAM AMSOM DESSOM.

2. STATE OF KERALA REPRESENTED BY ADDL.PUBLIC PROSECUTOR

BY ADV. SRI.M.RAMESH CHANDER
PUBLIC PROSECUTOR SRI.C.K.SURESH.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K. Basheer, J.

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Crl.A.No. 7 of 2000

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Dated this the 7th day of December, 2007.

ORDER

This appeal which is at the instance of the complainant in a prosecution under Section 138 of the Negotiable Instruments Act is directed against the order of acquittal passed by the court below under section 256(1) of the Code of Criminal Procedure.

2. It is primarily contended by the appellant in the memorandum of appeal that he could not attend the court on the crucial date (September 10, 1998) since he was laid up with fever. It is seen admitted by the appellant that his counsel also was absent on that day. In the impugned order the learned Magistrate noticed that the complainant was absent on almost all hearing dates after the appearance of the accused. The learned Magistrate had acquitted the accused since the complainant was absent when the case was taken up for trial.

3. Learned counsel for the respondent/accused submits that the contention that the appellant was laid up with fever on the crucial day is incorrect. It is also brought to my notice that the complainant had filed a suit for recovery of the money which was allegedly covered by the cheque involved in this case.

When the case is taken up today, there is no representation for the appellant. Nevertheless I have perused the materials available on record and heard learned counsel for the respondent. There is no merit in the appeal. It is accordingly dismissed.

A.K. Basheer
Judge.

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